

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

| | | |
|---------------------------|---|--------------------|
| THOMAS PFLEEGOR, | : | CIVIL ACTION – LAW |
| Plaintiff | : | |
| | : | |
| v. | : | Case No. _____ |
| | : | |
| GIANT FOOD STORES, aka | : | |
| THE GIANT COMPANY LLC dba | : | |
| GIANT MARTIN’S CO., | : | |
| Defendant | : | |

NOTICE OF REMOVAL OF CIVIL ACTION

TO: UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF PENNSYLVANIA

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant The GIANT Company LLC d/b/a Giant Food Stores (“Defendant”) hereby removes the above-captioned action from the Court of Common Pleas of York County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania. In support of this removal, Defendant states as follows:

1. On or about December 1, 2021, Plaintiff Thomas Pfleegor (“Plaintiff”) initiated a civil action against Defendant by filing a Complaint in the Court of Common Pleas of York County, Pennsylvania. The matter was docketed in the Court of Common Pleas at Number 2021-SU-000634.

2. As set forth therein, the Complaint arises out of allegations regarding Plaintiff's employment with Defendant and Defendant's decision to terminate Plaintiff's employment in May 2020. (See Compl., ¶¶ 6-45.)

3. As averred in Paragraph 40 of the Complaint, Plaintiff alleges that Defendant violated the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. ("ADA") and Title VII of the Civil Rights Act of 1964, 42U.S.C. §§ 2000e et seq. ("Title VII") by allegedly requiring him to exceed his lifting restrictions during his employment with Defendant. (Compl., ¶ 40.)

4. As averred in Paragraph 45 of the Complaint, Plaintiff alleges that Defendant violated the ADA and Title VII by allegedly terminating his employment based on his race or disability. (Compl., ¶ 45.)

5. Because Plaintiff seeks relief on claims arising out of statutory law of the United States, this Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1331.

6. Accordingly, this action is properly removed to this Court under 28 U.S.C. § 1441(a) and (c)(1).

7. As required by 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty days after Defendant's receipt of the Complaint setting forth the claims for relief arising under federal law.

8. A copy of this Notice of Removal is being filed with the Prothonotary of the Court of Common Pleas of York County, Pennsylvania and served upon all parties in accordance with 28 U.S.C. § 1446(d).

9. Defendant files with this Notice of Removal a copy of all process and pleadings served upon it in the state court action prior to the filing of this Notice of Removal. (See Exhibits A, B, and C).

10. In making the foregoing statements for purposes of removal, Defendant does not concede in any way that the allegations in the Complaint are accurate or meritorious, that Defendant has violated any of the laws alleged in the Complaint in any way, that the Plaintiff has asserted claims upon which relief can be granted, or that recovery of any amount is authorized or appropriate. This Notice of Removal does not waive any objections or defenses by Defendant, all of which are expressly preserved herein.

WHEREFORE, Defendant The GIANT Company LLC d/b/a Giant Food Stores hereby removes this action from the Court of Common Pleas of York County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By: /s/ Adam R. Long

Adam R. Long

PA I.D. No. 89185

M. Abbegaël Giunta

PA I.D. No. 94059

100 Pine Street, P.O. Box 1166

Harrisburg, PA 17108-1166

Phone: (717) 232-8000

Dated: December 20, 2021

Attorneys for Defendant The GIANT
Company LLC d/b/a Giant Food Stores

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the foregoing document was e-mailed and served via first class mail, postage prepaid, upon the following:

Sara A. Austin, Esq.
Austin Law Firm LLC
226 E. Market St.
York, PA 17403
saustin@austinlawllc.com

Attorney for Plaintiff Thomas Pfleegor

/s/ Adam R. Long
Adam R. Long

Dated: December 20, 2021